IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1484 OF 2007

Globe Plastic .... Petitioners

Vs.

Municipal Corporation of Greater Mumbai & Ors. .... Respondents

Mr. R.M. Nakhwa with T.C. Deshpande i/b Vasant Dhawan for Petitioner.

Ms. Trupti Puranik for Respondents.

CORAM : D.B. BHOSALE, J.
DATE : 31ST JULY, 2007

P.C.

1) Heard learned Counsel for the parties.

2) Rule. By consent, rule made returnable forthwith. Petition is taken up for hearing.

3) The petitioners have impugned a letter dated 21/05/2007 by which respondent no. 2 has communicated to the petitioners that their complaint filed under Section 163 of Bombay Municipal Corporation Act, 1888 against rateable value cannot be entertained, since it was filed beyond the period of limitation provided for under

Section 163 of the said Act. It appears that there was a delay of 36 days, as stated in paragraph 4 of the petition, in filing the complaint. Though the provisions of law contained in Section 163 of the Act specifically provides for 15 days period, there is no specific provision for condonation of delay by the authorities in cases where the complaints are filed beyond the specified period. This Court in various matters has taken a view that if facts and circumstances of the case and reasons for delay in filing the complaint under Section 163 of the said Act, the delay could be condoned by exercising jurisdiction under Article 226 of the Constitution of India. Considering the reasons stated in the petition and considering that the respondent has not controverted the statements made by the petitioner by filing reply affidavit, I am satisfied that the delay of 36 days in filing the complaint deserves to be condoned. Hence, I pass the following order :

O R D E R

(i) The communication dated 21st May 2007 by which the complaint of the petitioner has been rejected on the ground of limitation, is quashed and set aside.

(ii) Respondent No. 2 is directed to register the complaint filed by the Petitioners on 16th May 2007 and dispose of the same in accordance with law.

(iii) Rule is made absolute with no order as to costs.

(iv) It is needless to express that I have not examined the merits of the case and respondent no. 2 shall deal with the complaint on merits, as expeditiously as possible and preferably within a period of six months from the date of receipt of this order.

(v) Petition is disposed of.

(D.B. BHOSALE, J.)